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U.S. and India Reach Landmark Agreement to Lift Longstanding Indian Import Restrictions

United States Trade Representative Charlene Barshefsky announced an agreement on December 28, 1999, between the United States and the Government of India to lift import bans and import licensing requirements currently maintained by India on a large number of agriculture, textiles and consumer products. The United States successfully challenged these measures in World Trade Organization (WTO) dispute settlement proceedings. The WTO Appellate Body agreed with the U.S. that these quantitative restrictions violate India's WTO obligations.

Ambassador Barshefsky applauded the agreement, saying: "I am pleased that we have reached an agreement that is mutually beneficial to both the United States and to India. Eliminating these restrictions will provide–for the first time in fifty years for some products-- market access opportunities for U.S. producers in key sectors such as textiles, agriculture, consumer goods and a wide variety of manufactured products, and at the same time will stimulate investment, competition, and economic activity in India. This landmark agreement, negotiated by Deputy U.S. Trade Representative Ambassador Susan Esserman, resolves a longstanding issue of importance to the United States."

Under the agreement, India has committed to lift over 1,400 specific restrictions. Half of the restrictions will be lifted within three months; the remaining half of the restrictions will be lifted by April 1, 2001.

This agreement follows an August 23, 1999, ruling by the WTO Appellate Body that rejected India's claim that its balance-of-payments situation justifies import restrictions. That WTO decision sets several important precedents. It rejected arguments that India had made for many years, such as the argument that BOP measures are immune from review by WTO dispute settlement panels. The decision also made clear that countries which have instituted restrictions for balance-of-payments purposes must eliminate the restrictions when their balance-of-payments position no longer justifies such measures. In summary, the decision confirms that countries must act responsibly in utilizing WTO procedures, such as the balance-of-payments provisions, that restrict access to their markets.

The agreement signed last week sets a definitive timetable for India to carry out this important decision and remove these restrictions. India had previously reached agreements with the European Communities, Japan and other countries to remove these restrictions by April of 2003. The agreement with the United States advances that timetable by two years.

Moreover, with respect to India's domestic economic situation, the elimination of this regime of import restrictions will permit the growth and competition that will raise economic welfare levels and stimulate entrepreneurial activity in the Indian private sector that began with the reforms earlier this decade.

Background

India prohibits or severely restricts imports of various industrial, textile and agricultural products. India maintains a "Negative List" of products whose imports are banned, unless an importer gets a case-by-case license from the Indian government. The Negative List includes almost all consumer goods, including food, clothing and household appliances. India also channels imports of some agricultural products through state trading monopolies or "canalizing agencies." In addition, a government requirement banning imports by anyone except "actual users" prevents any imports for resale.

India claimed that much of this extremely restrictive import regime is permitted by the balance-of-payments provisions of the GATT. The United States challenged India's claim before a WTO panel. In a report issued on April 6, 1999, the panel ruled that India's balance-of-payments situation did not justify these restrictions. Among other things, the panel report noted that during India's 1997 consultation with the WTO Balance-of-Payments Committee, the International Monetary Fund stated that India no longer had a balance-of-payments problem that justified these restrictions.

India appealed the panel's findings to the WTO Appellate Body. In its report released on August 23, 1999, the Appellate Body rejected each of the arguments that India had raised in its appeal. Provisions of the WTO Dispute Settlement Understanding then required the United States and India to attempt to negotiate a period of time for India to implement the report. Those negotiations culminated in last week’s agreement.

These restrictions are the largest barrier to increasing U.S. exports to India. In addition, the Indian restrictions hurt trade from India's developing country trading partners, since they significantly restrict developing country products and tropical products which would be very competitive in the Indian market.

A copy of the agreement and the products concerned is available in the USTR reading room.

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